

REMARKS

In response to the Office Action mailed June 2, 2005, the Applicant amends claims 1, 4, 9, 14, and 17. Claims 1-21 are presented for examination

Claims

The Office has rejected claims 4 and 17 under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claims 4 and 17 have been amended to obviate this objection.

Section 102 rejection

The Office has rejected claims 1-2, 4-6, 9, 14-15, and 17-19 under 35 U.S.C. §102(e) as being anticipated by *Schuster* (US 6,363,053).

As amended, claim 1 recites obtaining reference data that characterizes a media stream. The reference data includes a transform of at least a portion of an image included in the media stream. Claim 1 also recites obtaining altered data that characterizes the media stream after the media stream has traversed a channel that includes a network. The altered data includes a transform of the at least a portion of an image included in the media stream after the media stream has traversed the channel.

In contrast, *Schuster* describes a process for determining a quality of service (QoS) based on measurable attributes relating to test traffic. *Schuster* determines the QoS by comparing what

traffic was transmitted to what traffic was received.¹ For example, *Schuster* describes comparing a transmission count of the number of packets sent with a count of the number of packets received.² *Schuster* also describes time-based QoS determinations that are based on a timestamp included in a packet.³ *Schuster* fails to describe or suggest obtaining reference data that includes a mathematical transform of at least a portion of an image included in that media stream, as recited in the applicant's claim 1.

Claims 2 and 4-7 depend on claim 1 and are patentable for at least the same reasons as claim 1. Claim 9 recites the limitation "obtaining reference data ... including a mathematical transform of at least a portion of an image included in said media stream," which is similar to the limitation of claim 1 described above. Therefore, claim 9 is patentable for reasons similar to those provided above in relation to claim 1. Claim 14 includes the limitation "obtaining reference data ... including a mathematical transform of at least a portion of an image included in said media stream," which is similar to the limitation of claim 1 described above. Therefore, claim 14 is patentable for reasons similar to those provided above in relation to claim 1. Claims 15 and 17-19 depend on claim 14 and are patentable for at least the same reasons as the claim on which they depend.

Section 103 rejection

The Office has also rejected claims 3, 13, and 16 under 35 U.S.C. §103(a) as being unpatentable over *Schuster* in view of *Morton* (US 5,912,701). Claims 3, 13, and 16 include the

¹ See col. 10, lines 7-9

² See col. 10, lines 9-12

³ See col. 10, lines 11-22

limitation of “obtaining reference data ... including a mathematical transform of at least a portion of an image included in said media stream” recited in claim 1. As discussed above, *Schuster* does not disclose reference data as recited in the applicant’s claim 1. *Morton* fails to remedy this deficiency in the disclosure of *Schuster* ‘053. In contrast, *Morton* sends a test signal through two channels and evaluates the relationship of signals received at the outputs of the channels. Therefore, *Schuster*, even if combined with *Morton*, fails to disclose the limitations of claims 3, 13, and 16.

The Office has also rejected claims 7, 8, 20, and 21 under 35 U.S.C. §103(a) as being unpatentable over *Schuster* ‘053 in view of *Schuster* (US 6,360,271). Claims 7 and 20 include the limitation of “obtaining reference data ... including a mathematical transform of at least a portion of an image included in said media stream.” As discussed above, *Schuster* ‘053 does not disclose obtaining reference data that includes a mathematical transform of at least a portion of an image included in a media stream. *Schuster* ‘271 fails to remedy this deficiency in the disclosure of *Schuster* ‘053. Therefore, *Schuster* ‘053 even if combined with *Schuster* ‘271, would fail to disclose the limitations of claims 7, 8, 20, and 21.

The Office has also rejected claims 10-12 under 35 U.S.C. §103(a) as being unpatentable over *Schuster* in view of *Bartz* (US 6,701,342). Claims 10-12 include the limitation of “obtaining reference data ... including a mathematical transform of at least a portion of an image included in said media stream” recited in claim 1. As discussed above, *Schuster* does not disclose obtaining reference data that includes a mathematical transform of at least a portion of an image included in said media stream. *Bartz* fails to remedy this deficiency in the disclosure of

Schuster '053. Therefore, *Schuster*, even if combined with *Bartz*, would fail to disclose the limitations of claims 10-12.

Summary

It is believed that all of the rejections have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Now pending in this application are claims 1-21. No additional fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our deposit account 60-1050, referencing attorney docket "10559-477001."

Applicant : Sudheer Sirivara et al.
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Respectfully submitted,

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Faustino A. Lichauco
Reg. No. 41,942

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

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